

**Remarks**

Claims 1 to 26 were in the application as filed. Claims 10, 11, 18, 19, 21 and 22 were cancelled in the Preliminary Amendment filed on August 31, 2007.

Claims 1, 2, and 20 are amended to include the definition of “acid and acid isostere function.” Support for this amendment can be found, for example, on page 11, line 36 to page 12, line 10 of the Specification.

Claims 1 to 4 and 20 are amended to specify the definition of R4 in certain instances.

Claims 1 to 4 are amended to delete compounds wherein R2, R2a, and R2b are hydrogen. Applicants reserve the right to prosecute the deleted subject matter in one or more continuation, continuation-in-part, or divisional applications on the same.

Claims 1 to 3 and 20 are amended to replace the term “dioxol” with “dioxolyl” to correct an obvious typographical error.

Claim 8 is amended to correct an inadvertent typographical error by adding a semi-colon. Claim 23 is amended to correct an inadvertent typographical error by deleting a duplicate comma.

Claim 27 has been added. Claim 27 differs from claim 1 in that R2 can be a hydrogen atom and Y cannot be =CR3. Support for claim 27 can be found, for example, in original claim 1.

No new matter has been added by these amendments.

As presently amended, claims 1 to 9, 12 to 17, 20, and 23 to 27 are pending in this application.

**Certified Copy of Priority Document**

The Examiner has not acknowledged that a certified copy of the priority documents has been received. However, a certified copy of the priority document, French Application No. 0301915, was filed with the United States Patent and Trademark Office on February 17, 2004. Applicants kindly request acknowledgement of the receipt of the certified copy of FR 0301915.

**Discussion of Restriction Requirement**

The Examiner has maintained the restriction requirement, and has corrected the classification of the invention groups as follows:

Group I: 544/118, 276, 277 (Now claims 1 to 8, 12, 20)

Group II: 544/276, 277 (Claim 9)

Group III: 514/234.2, 263.2 (Now, claims 13-17, 23-26)

(Office Action, page 2).

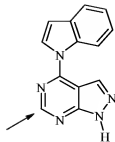
The Examiner has withdrawn the election of species requirement. Claims 13 to 17 and 23 to 26 are withdrawn from consideration as being directed to non-elected subject matter.

As acknowledged by the Examiner (pages 7 to 8 of the Restriction Requirement dated June 20, 2007), and in accordance with M.P.E.P. § 821.04, rejoinder of the product claims with process claims that are commensurate in scope with product claims should occur when the product claims are found allowable. It is respectfully submitted that the product claims are in condition for allowance. Therefore, rejoinder of the claims of Groups II and III is respectfully requested.

**Discussion of Rejection under 35 U.S.C. § 102(b)**

Claims 1 to 4 are rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by M'barek Haidoune et al. (*Journal of Heterocyclic Chemistry*, 31, 1461 (1994)). As grounds for this rejection, the Examiner states "See compound 5, corresponding to Y as =CR3, with all R variables as H" (Office Action, page 2).

A rejection under 35 U.S.C. § 102(b) requires each and every element set forth in the claim be present in a single prior art reference. For the present rejection, the Examiner points to compound 5, page 1461 of Haidoune et al. having the following structure:



which has a hydrogen atom at the equivalent position of Applicants' variable R2, indicated by the arrow above. This rejection is therefore believed overcome in view of the amendments to claims 1 to 4 deleting the compounds wherein R2, R2a, and R2b are hydrogen.

Compound 5 of Haidoune et al. also requires an aryl indole ring. New claim 27 is directed to compounds of formula (I), including compounds wherein R2 is hydrogen, but excluding compounds having an aryl indole ring. Because claim 27 does not encompass compounds having an aryl indole ring, said claim is novel over Haidoune et al.

Therefore, claims 1 to 4, as presently amended, as well as new claim 27, are novel over Haidoune et al., and reconsideration and withdrawal of the rejection of claims 1 to 4 under 35 U.S.C. §102(b) is respectfully requested.

#### **Discussion of Rejections under 35 U.S.C. § 112, second paragraph**

Claims 1 to 4, 12 and 20 are rejected under 35 U.S.C. § 112, second paragraph, as being allegedly indefinite.

First, the Examiner rejects the term "acid isostere function" as being "of unknown scope" (Office Action, page 3). This rejection is traversed.

MPEP 2173.05(a) provides that "[w]hen the specification states the meaning that a term is intended to have, the claim is examined using that meaning."

The phrase "acid isostere function" is clearly defined in the specification at page 11, line 36 to page 12, line 10 as follows:

[T]he term 'acid or acid isostere function' denotes a free, salified or esterified carboxyl radical, a free or salified tetrazolyl radical, or the

radicals: --SO<sub>3</sub>H, --PO(OH)<sub>2</sub>, NH--SO<sub>2</sub>--CF<sub>3</sub>, --NH--SO<sub>2</sub>--NH--V, NH--SO<sub>2</sub>--NH--CO--V, NH--CO--V, --NH--CO--NH--V, --NH--CO--NH--SO<sub>2</sub>--V, --SO<sub>2</sub>--NH--, --SO<sub>2</sub>--NH--CO--V, --SO<sub>2</sub>--NH--CO--NH--V, --CO--NH--V, --CO--NH--OH, --CO--NH--SO<sub>2</sub>--V in which V represents a linear or branched alkyl or alkenyl radical containing at most 6 carbon atoms or a phenyl radical, these alkyl, alkenyl and phenyl radicals represented by V optionally being substituted with the substituents indicated above for the alkyl and phenyl radicals of the products of formula (I).

Accordingly, the phrase “acid isostere function” would be understood by one skilled in the art when read in light of the specification. Nevertheless, Applicants have amended claims 1, 2, and 20, to specifically include the definition of acid and acid isostere function in said claims. This rejection is therefore believed overcome and withdrawal thereof is respectfully requested.

The Examiner also asserts that the “definition of the variable R<sub>4</sub> is self-iterative; it is defined in terms of itself. That is, the definition of the group R<sub>4</sub> includes groups with R<sub>4</sub> on it, which simply starts the definition all over again” (Office Action, page 3).

This rejection is believed overcome in view of the present amendments in claims 1 to 4 and 20, wherein the R<sub>4</sub> definition for the various substituents is now defined instead of referring to the R<sub>4</sub> definitions previous set forth.

The claims are also rejected for the use of the term “dioxol.” The Examiner states that “[p]resumably, dioxolanyl or dioxolyl is intended” (*id.*).

This rejection is rendered moot in view of the above-described amendments to claims 1 to 3 and 20 replacing the term “dioxol” with “dioxolyl.”

### **Discussion of Objection to the Claims**

Claims 5 to 8 are objected to as being dependent upon a rejected base claim. The Examiner’s indication that claims 5 to 8 “would be allowable if rewritten in independent

form including all of the limitations of the base claim and any intervening claims” is acknowledged with appreciation (Office Action, page 3).

In view of the foregoing arguments and amendments, claim 1 is believed to be allowable, and, accordingly, claims 5 to 8 should be allowable in dependent form.

There being no remaining issues, this application is believed in condition for favorable reconsideration and early allowance, and such actions are earnestly solicited.

The Commissioner is hereby authorized to charge any additional fees which may be required by this paper, or credit any overpayment to Deposit Account No. 18-1982.

Respectfully submitted,

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Date

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